



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **201615017**  
Release Date: 4/8/2016  
UIL Code: 501.03-30

Date: January 15, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear \_\_\_\_\_ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

Because you don't qualify as a tax-exempt organization under Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Date: November 19, 2015

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

A = Date  
B = State  
C = Website  
D = Specific Dog Breed  
E = Tax Year  
F = Tax Year  
G = Tax Year  
H = Tax Year  
J = Tax Year  
K = Kennel Club

**UIL:**

501.03-30

Dear \_\_\_\_\_ :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

**Issue:**

Do you qualify for tax exemption under section 501(c)(3) of the Code? No, for the reasons stated below.

**Facts:**

You were incorporated on date A in the State of B. You state you exist to support breeders and exhibitors of dog breed D. You assert you host 4-6 conformation dog shows annually under your recognized registry of K, which is a national kennel club. You also state you educate the general public through participation in other educational dog shows and expos and through your website. You state you have an active health committee working to understand and address any health issues that arise with D and you maintain a pedigree database to track the development of D and any issues. You also support a D rescue club.

Your website, C, provides a history of your club which describes the process you went through to develop and adopt the following documents: Breed Standards, Rules and Regulations for selecting breeding stock, and bylaws. Your website also details the establishment and maintenance of your breed registry. In tax year E, K recognized the D breed and took over the ownership and responsibility of your D breed's registry. In tax year F, you were approved by K as a fully licensed conformation and your first D show was held. Hosting and participating in dog shows is your primary activity.

Article III of your Articles of Incorporation includes the following language:

To initiate the initial parent club, as suggested by nationally recognized kennel clubs, so as to promote and improve knowledge of a newly developed breed of dog hereafter known as (D). This initial organization will educate and set the standards by which future groups interested in forming similar dog clubs of this breed shall have as a set guide-line for which to base their club's activities.

Article IV of your articles states: "This corporation is organized exclusively for educational purposes within the meaning of section 501(c)(3) of the Internal Revenue (Code)."

You amended your articles to include the following:

Upon the dissolution of the organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax Code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

Your bylaws state that you are organized for the following purposes:

- a) To seek recognition as an K Parent Club of D
- b) To promote and improve knowledge of the D and dogs in general
- c) To do all possible to bring the natural qualities of the pure-bred D to perfection through selective breeding
- d) To encourage genetic awareness within the breed by occasionally polling members as to the problems they may have encountered and publishing a list or brochure from the information collected giving clinical signs, methods of diagnosis, age of onset, mode of inheritance and potential treatments and prognosis when these things are known
- e) To aid with every possible means in demonstrating the conspicuous ability of D as a companion
- f) To encourage the organization of local D clubs in those localities where there are sufficient fanciers of the breed to meet the requirements of K
- g) To educate members and to urge breeders to adhere to the standard of the breed as approved by K and as a standard of excellence by which D may be judged
- h) To encourage sportsmanlike competition at all dog shows, and dog functions
- i) To conduct sanctioned matches and shows under the rules of K

Your membership is limited to any breeder, owner or fancier of the D breed who subscribes to the purposes and objectives of the Association, agrees to abide by the Association Code of Ethics and who is in good standing with K.

Your primary source of revenues and expenses are attributable to your participation in dog shows. During tax years H through J, revenues from dog shows comprised approximately 67% - 84% of your total gross annual income. During this same period, approximately 70% - 86% of your total annual expenses resulted from dog show activities.

Your remaining income sources included membership fees, fundraising programs and contributions. Your remaining expenses included fundraising programs, membership disbursements, contributions and miscellaneous expenses. Less than 3% of your total gross income is contributed to charitable organizations annually.

**Law:**

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax:

Organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation § 1.501(c)(3)-1(a)(1) asserts:

In order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treas. Reg. § 1.501(c)(3)-1(b)(1)(iii) states:

An organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes, even though such organization is, by the terms of such articles, created for a purpose that is no broader than the purposes specified in section 501(c)(3). Thus, an organization that is empowered by its articles *to engage in a manufacturing business, or to engage in the operation of a social club* does not meet the organizational test regardless of the fact that its articles may state that such organization is created *for charitable purposes within the meaning of section 501(c)(3) of the Code.* [Emphasis added.]

Treas. Reg. § 1.501(c)(3)-1(c)(1) states:

An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An

organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

Ann Arbor Dog Training Club, Inc. v. Commissioner, 74 T.C. 207 (1980), held that the training of animals does not come within the meaning of "educational" as set forth in section 501(c)(3) of the Code. The petitioner held obedience training classes, awarded dogs a degree after completion of the course, and awarded them prizes at show events. The petitioner argued that these activities furthered an educational purpose within the meaning of section 501(c)(3). The Tax Court held that while the owners of the dogs received some instruction as to the training of dogs, it was the dog that was the primary object of the training and evaluation.

Revenue Ruling 71-421, 1971-2 C.B. 229, held that a dog club, exempt under section 501(c)(7) of the Code, formed to promote the ownership and training of purebred dogs which conducted obedience training classes, could not be reclassified as an educational organization exempt under section 501(c)(3).

#### **Application of law:**

You are not described in section 501(c)(3) of the Code because you meet neither the organizational test nor the operational test outlined in Treas. Reg. § 1.501(c)(3)-1(a)(1).

You are not organized exclusively for one or more exempt purposes within the meaning of section 501(c)(3) because your Articles of Incorporation expressly empower you to create a parent club for a newly developed breed of dog, D. Since operating a parent club for a new breed of dogs is not a purpose limited to section 501(c)(3) of the Code, you do not meet the proscriptions outlined in Treas. Reg. § 1.501(c)(3)-1(b)(1)(iii). Despite the fact that your Articles of Incorporation state that you are organized exclusively for educational purposes within the meaning of section 501(c)(3) of the Code, you fail to meet the organizational test under section 501(c)(3) because your Articles of Incorporation empower you to engage in activities that are beyond the scope of section 501(c)(3). In accordance with Treas. Reg. § 1.501(c)(3)-1(b)(1)(iii), you have failed the organizational test and are therefore, not exempt.

You are not operated exclusively for one or more exempt purposes because your primary activity is to participate in conformation dog shows. Participation in such activities does not serve an "exclusively" charitable purpose within the meaning of Treas. Reg. § 1.501(c)(3)-1(c)(1). As a result, you do not meet the operational test outlined in this Treasury Regulation. Accordingly, we are unable to conclude that you meet the requirements for tax exemption under section 501(c)(3) of the Code.

Better Business Bureau of Washington D.C. v. United States, held that a single nonexempt purpose, if substantial, would preclude tax exemption under section 501(c)(3) of the Code. You were created to support D breeders and exhibitors. Your primary activity is participating in and hosting dog shows. Your primary source of income and expense are related to dog show activities. Participation in D dog shows and expos constitutes a substantial nonexempt purpose which in accordance with the court's ruling in this case, precludes tax exemption under section 501(c)(3).

You are similar to the organization described in Revenue Ruling 71-421, because you were formed to promote the D breed and your primary activity is to participate in dog shows and expos. Like the organization described in this ruling, the dog is the primary object of your activities. Promoting the D breed and participating in dog shows and expos does not further a “charitable or educational” purpose as outlined in section 501(c)(3) of the Code. As a result, you do not meet the operational test outlined in Treas. Reg. § 1.501(c)(3)-1(c)(1).

Like the organization described in Ann Arbor Dog Training Club, Inc. v. Commissioner, you do not qualify for tax exemption under section 501(c)(3) because you are primarily engaged in dog shows and expos to promote the D breed. These types of activities do not further an exclusively “charitable or educational” purpose within the meaning of Treas. Reg. § 1.501(c)(3)-1(c)(1). As a result, tax exemption under section 501(c)(3) is precluded.

**Your position:**

You assert that you qualify for tax exemption under section 501(c)(3) of the Code for the following reasons:

- a) You were granted tax exempt status under section 501(c)(3) in tax year G and your purposes and activities have not changed.
- b) You meet the organizational test outlined in Treas. Reg. § 1.501(c)(3)-1(a)(1).
- c) You meet the definition of “educational” as defined in section 501(c)(3) of the Code because you conduct the following activities:
  - Host multi-breed dog shows to provide exhibitors of a wide range of dogs the opportunity to hone their skills at handling dogs and to gain education from the judges
  - Provide educational seminars and workshops at shows and other times to increase the knowledge of dog handlers and breeders
  - Educate the public (via website, newsletters, pet expos, seminars and workshops etc...) on responsible dog breeding, what to look for when searching for a purebred dog, how to avoid scams and irresponsible breeders, and why/when spaying and neutering is critical
  - Educate the public on your specific breed
  - Instigate and support research into various health issues, which educates breeders and the general public
  - Support a Pedigree database to track as many as possible of D
  - Work through your Code of Ethics to ensure responsible breeding
  - Maintain funds for “dog welfare”, “Health and Research”, and “Education”
  - Raise funds for the D National Rescue
  - Produce a member newsletter
  - Encourage and support activities in other dog sports such as agility, rally obedience, service dog work, therapy dog work etc...

Further, you point out that your educational activities are open to the public and your membership is not restricted in any way. You state that you are not similar to the organizations described in Revenue Ruling 71-421, and Ann Arbor Dog Training Club, Inc. v. Commissioner, because your educational activities are directed at improving and increasing the knowledge of individuals regarding health and scientific issues surrounding D health and breeding.

- d) Various organizations with similar purposes and activities are currently recognized as tax exempt under section 501(c)(3) of the Code.

**Service's Position:**

You provided four arguments to substantiate your claim for recognition of tax exemption under section 501(c)(3) of the Code. We hold that none of the arguments you provided demonstrate that you meet the requirements for recognition of tax exemption outlined in section 501(c)(3) of the Code.

- a) You claim that you meet the requirements for tax exemption under section 501(c)(3) of the Code because you were granted tax exemption under this subsection in tax year G and your purposes and activities have not changed since that time. Based on the facts presented, we conclude that you do not meet the requirements for tax exemption under section 501(c)(3). Each application for exemption is unique and such exemption is based on all the facts and circumstances of the case.
- b) With regard to your assertion that you meet the organizational test outlined in Treas. Reg. § 1.501(c)(3)-1(a)(1) of the Regulations, we contend that you have failed to meet this test. You do not meet the proscriptions outlined in Treas. Reg. § 1.501(c)(3)-1(b)(iii) of the Regulations because your Articles of Incorporation empower you to operate a dog club and promote a new breed of dog as a substantial part of your activities. You do not meet the organizational test requirements under section 501(c)(3) regardless of the fact that your Articles of Incorporation include a statement indicating that you were formed exclusively for educational purposes.
- c) You argue that you qualify for tax exemption under section 501(c)(3) of the Code because you educate the public through dog shows and expos, newsletters, website content, seminars, research support, D rescue support etc... You state that you are not similar to the organization described in Revenue Ruling 71-421, and Ann Arbor Dog Training Club, Inc. v. Commissioner, because your educational activities are directed at improving and increasing the knowledge of individuals regarding health and scientific issues surrounding D health and breeding issues. We disagree. We assert that you are similar to the organizations described in Revenue Ruling 71-421, and Ann Arbor Dog Training Club, Inc. v. Commissioner, because your activities are directed at the promotion, training and evaluation of the D breed. Like the organizations described in the revenue ruling and court case, the primary object of your dog shows and educational activities is the D dog. We hold that you are not described in section 501(c)(3) of the Code because you have not demonstrated that your primary activity, participating in and hosting dog shows and expos to promote the D breed, meets the definition of "charitable and educational" as outlined in section 501(c)(3) of the Code.

- d) You assert that other organizations with similar activities have been recognized for tax exemption under section 501(c)(3). Each application for exemption is unique and such exemption is based on the facts and circumstances of the case.

**Conclusion:**

You do not qualify for tax exemption under section 501(c)(3) because you are neither organized nor operated exclusively for charitable, religious or educational purposes.

You do not meet the organizational test outlined in Treas. Reg. § 1.501(c)(3)-1(b)(1)(i) because your Articles of Incorporation:

- a) do not limit your purposes to one or more exempt purposes; and,
- b) expressly empower you to engage, otherwise than as an insubstantial part of your activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Further, the facts clearly show that you are not operated as a charitable and educational organization described in section 501(c)(3) of the Code because your primary activity is to promote the D breed and participate in conformation dog shows. Participation in such activities does not serve an “exclusively” charitable or educational purpose within the meaning of Treas. Reg. § 1.501(c)(3)-1(c)(1). As a result, you do not meet the operational test outlined in Treas. Reg. § 1.501(c)(3)-1(c)(1).

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code.

You declined to request recognition of exemption under another paragraph of section 501(c) of the Code. Therefore, we have not considered whether you qualify for exemption under such paragraph.

**If you don't agree:**

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative

- One of the following declarations:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

**For authorized representatives:**

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

**Where to send your protest**

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You can also fax your statement and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that he or she received it.

**If you agree**

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at [www.irs.gov/formspubs](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892